

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

IN RE: ETHICON, INC. PELVIC REPAIR SYSTEM PRODUCTS LIABILITY LITIGATION	Master File No. 2:12-MD-02327 MDL No. 2327
THIS DOCUMENT RELATES TO: All cases listed on Exhibit 1	JOSEPH R. GOODWIN U.S. DISTRICT JUDGE

**PLAINTIFFS' MOTION FOR LEAVE TO FILE
OUT OF TIME PTO #293 ELECTION FORMS**

COME NOW Plaintiffs listed on Exhibit 1, by and through their attorneys, Flint Law Firm LLC, and move for leave to file out of time additional PTO #293 election forms, and state as follows:

1. On April 11, 2018 this Court issued Pretrial Order #293 ("PTO #293) establishing procedures for the voluntary dismissal or disposition of cases involving Plaintiffs implanted with Ethicon's on-market "Gynecare TVT products" where Plaintiffs have not gone any "revision surgery".
2. PTO #293 required that Plaintiffs file an election form, Exhibit B to the Order, indicating the Plaintiff's intent to (i) dismiss her presently pending case without prejudice, or (ii) continue with her presently pending case by the deadline of June 10, 2018.
3. To comply with PTO #293, Flint Law Firm filed 69 election forms by the deadline of June 10, 2018.
4. In spite of Plaintiffs' counsel following up with letters and phone conversations, many Plaintiffs failed to understand the procedures set forth by PTO #293, failed to understand

the options afforded them by PTO #293, and therefore were reluctant to respond to Plaintiffs' counsel regarding PTO #293 and the election form.

5. Understandably, many Plaintiffs first wanted to speak with an attorney for an explanation of PTO#293 before agreeing to file an election form.

6. Since the deadline of June 10, 2018, Plaintiffs' counsel has prepared an additional 103 election forms for the cases listed on Exhibit 1.

7. Fed. Rule Civ. P. 6(b)(1)(B) provides that the Court may grant a motion for extending time "made after the time has expired if the party failed to act because of excusable neglect". Fed. Rule Civ. P. 6(b)(1)(B).

8. In the present action, Plaintiffs' counsel filed 69 election forms by the deadline of June 10, 2018. At the time of the deadline, Plaintiffs' counsel had filed election forms for all cases where Plaintiffs had returned mail or a phone call in response to letters from Plaintiffs' counsel regarding PTO #293.

9. At the time of the deadline, Plaintiffs' counsel had contacted or attempted to contact, at least twice, all 103 Plaintiffs listed on Exhibit 1.

10. Plaintiffs' counsel reasonably believed that many of these 103 plaintiffs listed on Exhibit 1 were going to return mail correspondence or a phone call by the deadline. Therefore, Plaintiffs' counsel's delay in filing election forms for these cases was excusable neglect as provided by Rule 6.

11. In the interests of expediting the voluntary dismissal or disposition of the many Ethicon pelvic mesh cases filed in this Court, Plaintiffs move for leave to file out of time PTO #293 election forms for cases listed on Exhibit 1.

WHEREFORE, Plaintiffs respectfully request that this Court grant Plaintiffs' Motion for Leave to File Out of Time PTO #293 election forms for all cases listed on Exhibit 1.

s/Jacob A. Flint
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COUNSEL FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I, Jacob A. Flint, certify that on August 1, 2018, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

s/Jacob A. Flint